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**BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke
Probation Against:

PHILIP KENT MCILNAY
1715 Via El Prado #746
Redondo Beach, CA 90277

Marriage and Family Therapist License
No. LMFT 2669

Respondent.

Case No. 2002014001212

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 7, 2014, Complainant Kim Madsen, in her official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs, filed Petition to Revoke Probation No. 2002014001212 against Philip Kent McIlnay (Respondent) before the Board of Behavioral Sciences. (Petition to Revoke Probation attached as Exhibit A.)
2. On or about March 3, 1969, the Board of Behavioral Sciences (Board) issued Licensed Marriage and Family Therapist License No. LMFT 2669 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein, expired on November 30, 2011, and has not been renewed.

///

1 3. On or about November 7, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Petition to Revoke Probation No. 2002014001212, Statement to Respondent,
3 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
4 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
5 and Professions Code section 136, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is: 1715 Via El Prado #746, Redondo Beach, CA 90277.

7 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
8 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
9 Code section 124.

10 5. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
16 Petition to Revoke Probation No. 2002014001212.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.
26 2002014001212, finds that the charges and allegations in Petition to Revoke Probation No.
27 2002014001212, are separately and severally, found to be true and correct by clear and
28 convincing evidence.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Philip Kent McIlInay has
3 subjected his Licensed Marriage and Family Therapist License No. LMFT 2669 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Behavioral Sciences is authorized to revoke Respondent's Marriage and
6 Family Therapist License based upon the following violations alleged in the Petition to Revoke
7 Probation which are supported by the evidence contained in the Default Decision Evidence
8 Packet in this case.

9 4. Respondent is subject to disciplinary action pursuant to Condition 12 of the Board's
10 Decision and Order for violation of probation as follows:

11 A. Grounds exist to revoke Respondent's probation under the authority of Condition 2 of
12 the Decision and Order for failing to submit the name(s) and qualifications of a psychotherapist of
13 his choice to the Board as required.

14 B. Grounds exist to revoke Respondent's probation under the authority of Condition 4 of
15 the Decision and Order because on or about January 7, 2014 and April 7, 2014, Respondent failed
16 to submit the required Quarterly Reports.

17 C. Grounds exist to revoke Respondent's probation under the authority of Condition 13
18 of the Decision and Order because as of the effective date of the Decision after Reconsideration,
19 Respondent failed to renew his license to a current, active license.

20 D. Grounds exist to revoke Respondent's probation under the authority of
21 Condition 17 of the Decision and Order because Respondent failed to pay the reimbursement
22 costs in the amount of \$1,200.00 for the probation program that were due on or before September
23 29, 2014.

24 F. Grounds exist to revoke Respondent's probation under the authority of Condition 5 of
25 the Decision and Order because Respondent failed to respond to correspondence sent to him by
26 the Board on January 15, 2014 which directed him to respond to the correspondence by January
27 30, 2014. Moreover, Respondent failed to comply with Conditions 2, 4, 5, 13, and 17.
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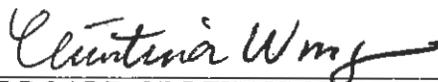
ORDER

IT IS SO ORDERED that Licensed Marriage and Family Therapist License No. LMFT 2669, heretofore issued to Respondent Philip Kent McIlnay, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 16, 2015.

It is so ORDERED December 17, 2014



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

51640277.DOC
DOJ Matter ID: LA2014511996
Jz(11/18/14)

Attachment:
Exhibit A: Petition to Revoke Probation

Exhibit A

Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KIMBERLEE D. KING
Deputy Attorney General
4 State Bar No. 141813
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2581
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke
Probation Against,

Case No. 20022014001212

13 **PHILIP KENT MCILNAY**
1715 Via El Prado #746
14 Redondo Beach, CA 90277

PETITION TO REVOKE PROBATION

15 **Marriage and Family Therapist**
16 **License No. LMFT 2669**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kim Madsen (Complainant) brings this Petition to Revoke Probation solely in her
21 official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of
22 Consumer Affairs.

23 2. On or about March 3, 1969, the Board issued Licensed Marriage and Family
24 Therapist license number LMFT 2669 to Philip Kent McIlnay (Respondent). The license was in
25 full force and effect at all times relevant to the charges brought herein and expired on November
26 30, 2011.

1 licensed mental health professional who has been approved by the Board. Within 15
2 days of the effective date of this decision, Respondent shall submit to the Board or its
designee for its prior approval the name and qualifications of one or more therapists
of Respondent's choice."

3 8. On or about October 14, 2013, Respondent failed to submit the name(s) and
4 qualifications of a psychotherapist of his choice to the Board.

5 **SECOND CAUSE TO REVOKE PROBATION**

6 **(Failure to Submit Timely Quarterly Report(s))**

7 9. At all times during probation, Respondent was subject to the following
8 condition:

9 **4. File Quarterly Reports**

10 "Respondent shall submit quarterly reports, to the Board or its designee,
11 as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state
12 under penalty of perjury whether he has been in compliance with all the conditions of
13 probation. Notwithstanding any provision for tolling of requirements of probation,
during the cessation of practice respondent shall continue to submit quarterly reports
under penalty of perjury."

14 10. On or about January 7, 2014 and April 7, 2014, Respondent failed to submit the
15 required Quarterly Reports. This failure to timely submit timely quarterly reports subjects
16 Respondent's License to revocation.

17 //

18 **THIRD CAUSE TO REVOKE PROBATION**

19 **(Failure to Renew His License to a Current, Active License)**

20 11. At all times during probation, Respondent was subject to the following condition:

21 **13. Maintain Valid License**

22 "Respondent shall, at all times while on probation, maintain a current and
23 active license with the Board, including any period during which suspension or
24 probation is tolled. Should respondent's license, by operation of law or otherwise,
25 expire, upon renewal respondent's license shall be subject to any and all terms of this
probation not previously satisfied."

26 12. As of the effective date of the Decision after Reconsideration, Respondent failed to
27 renew his license to a current, active license.

28

1 FOURTH CAUSE TO REVOKE PROBATION

2 (Failure to Reimburse Probation Program)

3 13. At all times during probation, Respondent was subject to the following condition:

4 **17. Reimbursement of Probation Program**

5 "Respondent shall reimburse the Board for the costs it incurs in
6 monitoring the probation to ensure compliance for the duration of the probation
7 period. Reimbursement costs shall be \$1,200 per year."

8 14. By the terms of the Decision and Order, Reimbursement costs in the amount of
9 \$1,200.00 for the probation program were due on or before September 29, 2014. Respondent
10 failed to pay the reimbursement costs on or anytime after September 29, 2014.

11 FIFTH CAUSE TO REVOKE PROBATION

12 (Failure to Comply With Probation Program)

13 15. At all times during probation, Respondent was subject to the following condition:

14 **5. Comply with Probation Program**

15 "Respondent shall comply with the probation program established by the
16 Board and cooperate with representatives of the Board in its monitoring and
17 investigation of the respondent's compliance with the program."

18 16. Respondent failed to respond to correspondence sent to him by the Board on January
19 15, 2014 which directed him to respond to the correspondence by January 30, 2014. Moreover,
20 Respondent failed to comply with conditions 2, 4, 5, 13, and 17.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Behavioral Sciences issue a decision:

24 1. Revoking the probation that was granted "In The Matter of the Accusation Against
25 Philip Kent McInay," Case No. MF-2010-771, and imposing the disciplinary order that was
26 stayed, thereby revoking Licensed Marriage and Family Therapist license no. LMFT 2669 issued
27 to Respondent Philip Kent McInay;
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2. Revoking or suspending Licensed Marriage and Family Therapist license no. LMFT 2669, issued to Philip Kent McInay; and

3. Taking such other and further action as deemed necessary and proper.

DATED: November 7, 2014


KIM MADSEN
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant

LA2014511996
51610905.doc

Exhibit A

Decision and Order

Board of Behavioral Sciences Case No. MF-2010-771

BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of Accusation Against:

PHILIP KENT McILNAY,

Marriage and Family Therapist License
No. MFC 2669,

Respondent.

Case No. MF-2010-771

OAH No. 2012100218

DECISION AFTER RECONSIDERATION

The proposed decision of the administrative law judge dated January 22, 2013 was considered and adopted by the Board. Prior to the effective date, Respondent timely filed a Petition For Reconsideration and for stay of the decision. In his petition, Respondent sought removal of the condition of probation that would prevent him from supervising unlicensed persons in his practice.

On March 20, 2013, the Board granted the petition for reconsideration and stay, and set the matter for consideration on May 22, 2013. Respondent appeared before the Board on May 22, 2013, and that matter was heard but continued for further closed session deliberation to August 21, 2013. Having considered oral and written arguments from the parties, together with the entire record, including the transcript of the hearing pursuant to Government Code Section 11521, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

Parties and Jurisdiction

1. Complainant brought the Accusation in her official capacity as Executive officer of the Board of Behavioral Sciences (Board), alleging cause exists to discipline Respondent's license due to two recent convictions. Respondent timely submitted a request for a hearing.
2. On March 3, 1969, the Board issued Marriage and Family Therapist License number MFC 2669 to Respondent. The license was in full force and effect at all times relevant and expired on November 30, 2011. Pursuant to Business and Professional Code section 118, subdivision (b), the expiration of a license does

not deprive the Board of jurisdiction to proceed with disciplinary action during the period within which the license may still be renewed.

Respondent's Convictions

3. On March 3, 2010, in the Superior Court of the State of California, County of Los Angeles, Respondent plead nolo contendere to and was convicted of one misdemeanor count of making repeated telephone calls with the intent to annoy and/or harass another person in violation of Penal Code section 653m, subdivision (b). Imposition of sentence was suspended and Respondent was placed on one year of informal probation under terms including obeying all laws and court orders. Respondent successfully completed probation. He testified that this conviction was expunged, but no documentary evidence corroborating the same was presented.
4. The circumstances underlying this conviction are that from December 2-9, 2009, Respondent called and left approximately 10 graphic sexual messages for a 27-year-old woman whom Respondent knew from when she had interned with him beginning in August 2009. Respondent admitted to police that it was "inappropriate and wrong" for him to make those calls to the victim.
5. On April 5, 2010, in the Superior Court for the State of California, County of Orange, Respondent pleaded nolo contendere to and was convicted of one misdemeanor count of criminal trespass in violation of Penal Code section 602, subdivision (c). Imposition of sentence was suspended and Respondent was placed on three years' informal probation under terms including that he violate no laws and obey the court's orders. Respondent successfully completed probation. He testified that his conviction was expunged, but no documentary evidence corroborating the same was presented.
6. The circumstances underlying this conviction are that from December 10-12, 2009, while he was staying at the Marriot Hotel in Anaheim during a professional conference, Respondent engaged in episodes of bizarre behavior, including running and wandering around naked and delusional on the 14th floor, trying to open the doors of other hotel guests' rooms; and barging into a room and then dropping his pants to expose his behind to a hotel maid in the room. Due to Respondent's indecent and inappropriate conduct, the hotel's security staff ordered Respondent to leave the hotel. Respondent refused to do so.

Mitigation and Rehabilitation

7. Respondent's convictions arose from a two week period in December of 2009 when he was in the midst of a major episode emanating from his bi-polar disorder.

8. Respondent first suffered a manic episode in the early 1990s when he was 49. He was diagnosed with bi-polar disorder at that time. He treated with a psychiatrist and by 1995 his condition was under control. At that time, Respondent stopped taking medications and was symptom-free for several years thereafter. However, in the fall of 2009, Respondent suffered a second major manic episode at the age of 67. He testified that he had been so good for so long that he got arrogant and reverted back to bad habits that were associated with his first manic episode many years before.
9. Respondent's second manic episode was far more severe and proved harder to control. He was hospitalized four times on psychiatric holds during the period of October 2009 through April 2010. Respondent's bi-polar disorder includes periods of depression, and periods of mania, i.e., when Respondent has delusions of grandeur and a feeling of invincibility. It was during the manic phase when Respondent committed his crimes.
10. The hospitalizations resulted in Respondent being prescribed a regimen of heavy medications, which seemed to stop his mania. However, it was not until he began treating with psychiatrist Nathan E. Lavid that he began to recover. Dr. Lavid quickly realized that the number and dosages of Respondent's medications were causing unpleasant side effects and not effectively dealing with his depression. Dr. Lavid has gradually tapered Respondent's medications down to a stable and effective complement, which has stopped the mania and helped to control his depression.
11. Dr. Lavid has diagnosed Respondent with bi-polar disorder, type 1, in remission. This is the most serious type of bi-polar disorder. However, Dr. Lavid's prognosis for Respondent is excellent, because Respondent has responded well to his treatment, has been compliant, and has been willing to advise Dr. Lavid of any pre-cursors of a manic episode. Dr. Lavid and the Board are also impressed with the network of support that Respondent has developed from his family, friends and work colleagues, who have been very vocal and involved in his recovery. Dr. Lavid persuasively testified that Respondent is not likely to suffer another major manic episode while in his care. Respondent was also forthcoming about his disorder, and persuasively testified before the Board about the various safeguards he has put in place to ensure that he remains medication compliant and in touch with and accountable for his condition.
12. Respondent is now acutely sensitive of his need to continue taking his medications. He understands the signs of potential problems and is willing to alert Dr. Lavid and his family. He testified before the Board that he has signed releases allowing his adult children to contact and discuss his condition with Dr. Lavid if they begin to see warning signs of depression or mania. He is motivated to continue taking his medications. He demonstrated good self-awareness in explaining how and why his two major manic episodes occurred and his

culpability for the same.

13. Respondent is also a licensed psychologist in this state. He is currently in private practice, focusing on counseling victim of sexual and domestic abuse. He owns and operates his practice. He decided to allow his MFT license to expire because he wanted to "retire" it. His main motivation in that decision relates to complications in completing continuing education requirements for both his MFT and psychologist licenses which have imperfectly overlapping deadlines.
14. Respondent has no other known criminal record. He has no prior history of discipline with the Board. He has no record of discipline with the Board of Psychology either, which has not yet taken final action against his psychology license based on the above-described events.
15. It has been more than three years since Respondent's convictions and no evidence of any subsequent misconduct by Respondent was submitted.
16. Respondent appeared contrite and candid during the hearing, including by remarks that the police reports describing his behaviors above were not only accurate but "eloquent," and that he was "bat crazy" during the two week period in December of 2009. He has accepted complete responsibility for his conduct, and has made an admirable effort to put necessary safeguards in place to minimize the chances and effects of depression and mania.

Costs

17. The Board incurred reasonable costs in the investigation and prosecution of this matter in the amount of \$6,000.

LEGAL CONCLUSIONS

1. Cause for Discipline (Conviction of Substantially Related Crimes). Respondent is subject to discipline under Business and Professions Code sections 490 and 4982, subdivision (a), on the ground of unprofessional conduct, in that Respondent was twice convicted of crimes substantially related to the qualifications, functions or duties of his license. Pursuant to California Code of Regulation, title 15, section 1812, crimes are substantially related when they evidence actual or potential unfitness to perform functions authorized by an MFT license in a manner consistent with the public health, safety and welfare. In this case, Respondent's crimes, standing alone, may evidence an unfitness to practice marriage and family therapy because they show poor judgment in interacting with others. However, the circumstances underlying the crimes certainly evidence a potential unfitness to practice because they demonstrate that, when Respondent falls into a manic episode of his bi-polar disorder, he is

completely unable to comport himself responsibly, rationally or appropriately with anybody, let alone a patient or work colleagues. (Factual Findings 1-9.)

2. The Board has no jurisdiction to grant Respondent's request to allow him to continue supervising unlicensed persons during probation. Business and Professions Code section 4980.03 defines a supervisor as one who, among other things, has a current and valid license that is not under suspension or probation.
3. Rehabilitation. The criteria established by the Board for evaluating the rehabilitation of a licensee convicted of a crime(s) (Cal. Code Regs., tit. 16, § 1814, subd. (a)) is applied to Respondent as follows. The nature and severity of the acts under consideration are of moderate seriousness, but the severity of those actions is substantially mitigated by the fact that Respondent was in the midst of a major manic phase of his bi-polar disorder and was not fully in command of his mental faculties at the time (criterion 1). No evidence was presented of any misconduct committed subsequent to Respondent's second arrest/conviction (criterion 2). More than three years have elapsed since Respondent engaged in this misconduct (criterion 3). Respondent has complied with and successfully completed both his criminal probations (criterion 4). Although Respondent testified that convictions have been expunged, he did not submit any documents corroborating the same (criterion 5). The sixth and seventh criteria are not applicable to this case. Respondent presented evidence demonstrating a satisfactory level of rehabilitation commensurate with the seriousness of his misconduct (criterion 8). Namely, Respondent has been effectively treated for his condition, it is in remission, and his prognosis is excellent.
4. Disposition. Reference was made to the Board's current Disciplinary Guidelines (revised December 2012). Since Respondent's misconduct is substantially related to a period of time when his bi-polar disorder went untreated, and his disorder is now in remission and Respondent is motivated to maintain his treatment, revocation of his license is unwarranted. However, serious discipline is necessary to insure Respondent is taking the actions necessary to keep his disorder in remission. Therefore, his current treating psychiatrist, Dr. David, or another mental health provider acceptable to the Board shall continue to report on Respondent's condition quarterly to the Board. Respondent shall also be required to engage in psychotherapy at least once a month; and have that therapist also report on Respondent's condition to the Board. Those professionals will be the eyes and ears of the Board while Respondent is on probation. Respondent shall also be required to pay the Board for the cost of probation monitoring. All standard terms and conditions shall be imposed. However, the other optional terms suggested in the Disciplinary Guidelines for the violations established herein, namely a 60 day suspension, supervised practice and education courses, do not appear warranted, and would be punitive if applied. Respondent does not pose a threat to the public provided he maintains and continues treatment of his bi-polar disorder. The above-described

optional terms imposed shall be sufficient for that purpose. (Factual Findings 1-16.)

5. Costs. Business and Professions Code section 125.3 allows the Board to recover from a licensee found to have committed a violation of its licensing act the reasonable costs of its investigation and enforcement of the matter. In this case, Complainant established reasonable costs in the amount of \$6,000. (Factual Finding 17.)

ORDER

Marriage and Family Therapist License number MFC 2669, issued to Respondent Phillip Kent McInay, is revoked. However, revocation is stayed and Respondent's license is placed on probation for a period of three years under the following terms and conditions.

1. Psychological/Psychiatric Evaluation

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall complete a psychological or psychiatric evaluation by such licensed psychologist or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by Respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding Respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), Respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the Respondent's practice will be supervised.

If Respondent is determined to be unable to practice independently and safely, upon notification, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the Respondent of its determination that Respondent may resume practice.

2. Psychotherapy

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 15 days of the effective date of this decision, Respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of Respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with Respondent, and shall not be the Respondent's supervisor. Counseling shall be at least once per month unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by Respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if Respondent's good faith attempts to secure face-to-face counseling are unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that Respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval of the Board, Respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary. Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning Respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified Respondent that he may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

3. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all

violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

4. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

5. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

6. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

7. Failure to Practice

In the event respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4908.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.

8. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the

address, the telephone number and the date of the change.

9. Supervision of Unlicensed Persons

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision.

10. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).

11. Notification to Employer

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

12. Violation of Probation

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

13. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

14. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

15. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

16. Notification to Referral Services

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

17. Reimbursement of Probation Program

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$1,200 per year.

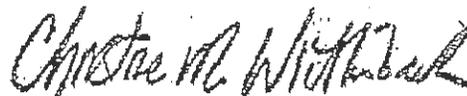
18. Cost Recovery

Respondent shall pay the Board \$6,000 as and for the reasonable costs of the investigation and prosecution of this case. Respondent shall make such payments pursuant to a schedule approved in writing by the Board. Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. MF-2010-771. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation. A period of non-practice by respondent shall not relieve respondent of his or her obligation to reimburse the board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

This Decision shall become effective on September 29, 2013

IT IS SO ORDERED this 30th day of August, 2013.



CHRISTINE WIETLISBACH, Chair
Board of Behavioral Sciences